

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRIAN L. ANDERSON,)	
)	
Plaintiff,)	Civil Action No. 21-620
)	
v.)	District Judge David Stewart Cercone
)	Magistrate Judge Maureen P. Kelly
BRIAN ENGLERT, <i>Guard</i> ;)	
KOZLOWSKI, <i>Sergeant</i> ;)	
PENDELL, <i>Captain</i> ; WISEMAN, <i>Captain</i> ;)	Re: ECF No. 20
YOUNG, <i>Captain</i> ; and)	
RICHARD FITZGERALD, <i>County Executive</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

Brian L. Anderson (“Plaintiff”) is a former pretrial detainee who was, at the time of filing of this civil action, confined at the Allegheny County Jail in Pittsburgh, Pennsylvania (“ACJ”). On May 11, 2021, this Court received Plaintiff’s Complaint, as well as a Motion and Declaration in Support of Motion to Proceed *in Forma Pauperis* (“IFP Motion”). ECF No. 1. Plaintiff was granted leave to proceed *in forma pauperis* on August 19, 2021. ECF No. 17.

Plaintiff brings this lawsuit pursuant to the Civil Rights Act of 1871. 42 U.S.C. § 1983 et seq. In his Complaint, Plaintiff alleges that various defendants subjected him to talk of a sexual nature, damaged his property, placed him in disciplinary housing, and tampered with his meals. ECF No. 18 at 7, 9.

On September 22, 2021, United States Magistrate Judge Maureen Kelly issued a Report and Recommendation in which she recommended that:

- Plaintiff’s federal lost property claim should be dismissed without leave to amend in this Court, but without prejudice to filing a state law claim in state court, if appropriate;
- Plaintiff’s claims regarding “unsolicited talk of a sexual nature,” as well as his

scant allegation of “meal tampering,” should be dismissed, with leave to amend; and

- All other claims should be dismissed with prejudice.

ECF No. 20 at 9. Plaintiff was advised of his right to file objections. *Id.* The deadline for objections has passed and, as of this date, Plaintiff has not filed any objections to the Report and Recommendation.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, ECF No. 20, the following order is entered:

AND NOW, this 30th day of March, 2022,

IT IS HEREBY ORDERED that the Complaint, ECF No. 18, is DISMISSED, and the claims therein are disposed as follows:

- Plaintiff’s federal lost property claim is dismissed without leave to amend in this Court, but without prejudice to filing a state law claim in state court, if appropriate;
- Plaintiff’s claim regarding “unsolicited talk of a sexual nature,” as well as his claim of “meal tampering,” are dismissed, with leave to amend; and
- All other claims are dismissed with prejudice.

Plaintiff shall submit an amended complaint with respect to the claims for which he has been given leave to amend in this Court on or before April 29, 2022. Failure to submit an amended complaint by that date may result in this case being dismissed for failure to prosecute.

IT IS FURTHER ORDERED the magistrate judge’s Report and Recommendation, ECF No. 20, as it is augmented by this order, is adopted as the opinion of this Court.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: The Honorable Maureen P. Kelly
United States Magistrate Judge

Brian L. Anderson
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